IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Bail Appl..No. 6122 of 2007()

(CRIME NO. 41/2007 OF AGALI EXCISE RANGE)

PETITIONER/ACCUSED

GEORGE, S/O. LATE KURIAN, AGED 34 YEARS,
PANDIKKAD HOUSE, KALLAMALA, KALLAMALA VILLAGE,
MANNARKKAD, PALAKKAD DISTRICT.

BY ADV. SRI.V.A.AJAI KUMAR

RESPONDENTS: COMPLAINANT

---

1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE EXCISE INSPECTOR,
AGALI EXCISE RANGE, AGALI, MANNARKKAD.

BY ADV. SRI. S.U. NAZER, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

B.A.No.6122 of 2007

= = = = = = = = = = = = = =

Dated this the 9th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. 800 litres of wash was found concealed in the residential compound of the petitioner on 26.9.07. Search of the house did not yield any tangible results. The compound was searched and counterband liquor was seized. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Appropriate directions under Section 438 Cr.P.C may in these circumstances be issued, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances in this case justifying the invocation of extraordinary equitable discretion under Section 438.

4. I find merit in the opposition by the learned Public Prosecutor. I agree that this is a fit case where the petitioner must resort to the ordinary and normal course of appearing before the learned Magistrate having jurisdiction. He must then seek regular bail

in the normal and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for regular bail on merits, in accordance with law and expeditiously. Every court must do the same.

In the result, this petition is dismissed. Needless to say, if the petitioner appears before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE